

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 846

Introduced by Assembly Member Bonilla

February 17, 2011

~~An act to amend Section 316.2 of the Welfare and Institutions Code, relating to dependent children. An act to amend Section 10618.6 of the Welfare and Institutions Code, relating to public social services.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 846, as amended, Bonilla. ~~Dependent children: notice to alleged fathers.~~ *Foster youth: identity theft.*

Under existing law, a county welfare department is required to request a consumer disclosure, pursuant to federal law, on behalf of a youth in a foster care placement in the county when the youth reaches his or her 16th birthday, in order to ascertain whether the youth has been the victim of identity theft. If the consumer disclosure reveals any negative items or evidence that identity theft has occurred, existing law requires the county welfare department to refer the youth to an approved organization that provides services to victims of identity theft. Existing law requires the department to develop a list of approved organizations for this purpose, in consultation with the County Welfare Directors Association and others.

This bill would revise these provisions to require the county welfare department or the State Department of Social Services to ascertain whether identity theft may have occurred under the described circumstances. The bill would authorize the county welfare department and the State Department of Social Services to refer the matter to a governmental agency or nonprofit organization that provides

information and assistance to victims of identity theft. The bill would authorize the governmental agency or nonprofit organization to take remedial actions to clear the youth's credit record and to report the results to the county welfare department or the State Department of Social Services. The bill would require the Office of Information Security and Privacy Protection, in consultation with the State Department of Social Services and other specified entities, to develop a list of governmental agencies and nonprofit organizations to which these matters may be referred for assistance in responding to an instance of suspected identity theft.

~~Existing law requires the juvenile court, at the detention hearing held in a dependency proceeding, or as soon as practicable, to inquire of the mother and any other appropriate person as to the identity and address of any presumed or alleged father of the child who is the subject of the proceeding, and specifies the factors the court may consider in this regard.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10618.6 of the Welfare and Institutions
2 Code is amended to read:
3 10618.6. ~~When~~ *In the year that a youth in a foster care*
4 *placement reaches his or her 16th birthday, the county welfare*
5 *department or the State Department of Social Services shall request*
6 *a consumer disclosure, disclosure from each of the national*
7 *consumer credit reporting agencies, pursuant to the free annual*
8 *disclosure provision of the federal Fair Credit Reporting Act, Act*
9 *(15 U.S.C. Sec. 1681 et. seq.), on the youth's behalf,*
10 *notwithstanding any other provision of law, to ascertain whether*
11 *or not identity theft has occurred. If there is a may have occurred.*
12 *Notwithstanding Section 827, Section 10850, or any other provision*
13 *of law, both the county welfare department and the State*
14 *Department of Social Services are authorized under this section*
15 *to make the request on a foster youth's behalf. If the State*
16 *Department of Social Services submits the request, the department*
17 *shall use the most efficient means possible, such as via a batch*

process using lists of youth turning 16 years of age, on a quarterly or semiannual basis, rather than via individual manual requests. If a consumer disclosure for the youth exists and if the consumer disclosure reveals any negative items, or any evidence that some form of identity theft has occurred, the county welfare department shall refer the youth to an approved counseling may have occurred, the State Department of Social Services or the county welfare department, acting on behalf of the foster youth, may refer the matter to a governmental agency or nonprofit organization that provides services information and assistance to victims of identity theft. The State Department of Social Services, in consultation with The governmental agency or nonprofit organization may take remedial action on behalf of the foster youth to clear his or her credit record and report the results of the action to the county welfare department or the State Department of Social Services. The Office of Information Security and Privacy Protection, in consultation with the State Department of Social Services, the County Welfare Directors Association, consumer credit reporting agencies, and other relevant stakeholders, shall develop a list of approved governmental agencies and nonprofit organizations to which youth these matters may be referred for assistance in responding to an instance of suspected identity theft. Nothing in this section shall be construed to require the county welfare department to request more than one or the State Department of Social Services to make more than one request for a consumer disclosure on behalf of a youth in care, or to take steps beyond referring the youth matter to an approved a governmental agency or nonprofit organization.

SECTION 1. Section 316.2 of the Welfare and Institutions Code is amended to read:

316.2. (a) At the detention hearing, or as soon thereafter as practicable, the court shall inquire of the mother and any other appropriate person as to the identity and address of any presumed or alleged father. The presence at the hearing of a man claiming to be the father shall not relieve the court of its duty of inquiry. The inquiry shall include at least all of the following, as the court deems appropriate:

- (1) Whether a judgment of paternity already exists.
- (2) Whether the mother was married or believed she was married at the time of conception of the child or at any time thereafter.

1 ~~(3) Whether the mother was cohabiting with a man at the time~~
2 ~~of conception or birth of the child.~~

3 ~~(4) Whether the mother has received support payments or~~
4 ~~promises of support with respect to the child or in connection with~~
5 ~~her pregnancy.~~

6 ~~(5) Whether any man has formally or informally acknowledged~~
7 ~~or declared his possible paternity of the child, including by signing~~
8 ~~a voluntary declaration of paternity.~~

9 ~~(6) Whether paternity tests have been administered and the~~
10 ~~results, if any.~~

11 ~~(7) Whether any man otherwise qualifies as a presumed father~~
12 ~~pursuant to Section 7611, or any other provision, of the Family~~
13 ~~Code.~~

14 ~~(b) If, after the court inquiry, one or more men are identified as~~
15 ~~an alleged father, each alleged father shall be provided notice at~~
16 ~~his last and usual place of abode by certified mail return receipt~~
17 ~~requested alleging that he is or could be the father of the child.~~
18 ~~The notice shall state that the child is the subject of proceedings~~
19 ~~under Section 300 and that the proceedings could result in the~~
20 ~~termination of parental rights and adoption of the child. Judicial~~
21 ~~Council form Paternity-Waiver of Rights (JV-505) shall be~~
22 ~~included with the notice. Nothing in this section shall preclude a~~
23 ~~court from terminating a father's parental rights even if an action~~
24 ~~has been filed under Section 7630 or 7631 of the Family Code.~~

25 ~~(c) The court may determine that the failure of an alleged father~~
26 ~~to return the certified mail receipt is not good cause to continue a~~
27 ~~hearing pursuant to Section 355, 358, 360, 366.21, or 366.22.~~

28 ~~(d) If a man appears in the dependency action and files an action~~
29 ~~under Section 7630 or 7631 of the Family Code, the court shall~~
30 ~~determine if he is the father.~~

31 ~~(e) After a petition has been filed to declare a child a dependent~~
32 ~~of the court, and until the time that the petition is dismissed,~~
33 ~~dependency is terminated, or parental rights are terminated pursuant~~
34 ~~to Section 366.26 or proceedings are commenced under Part 4~~
35 ~~(commencing with Section 7800) of Division 12 of the Family~~
36 ~~Code, the juvenile court which has jurisdiction of the dependency~~
37 ~~action shall have exclusive jurisdiction to hear an action filed under~~
38 ~~Section 7630 or 7631 of the Family Code.~~

1 ~~(f) After any inquiry, proceeding, or determination made~~
2 ~~pursuant to this section, the juvenile court shall note its findings~~
3 ~~in the minutes of the court.~~

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